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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,980	08/21/2008	Bernhard Hoffschmidt	DEUTZ.73393	5607

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EXAMINER

ORLANDO, AMBER ROSE

ART UNIT	PAPER NUMBER
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1774

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/571,980	Applicant(s) HOFFSCHMIDT ET AL.	
	Examiner AMBER ORLANDO	Art Unit 1776	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the correspondence filed 01/26/2011.

Claim 1 has been amended.

Claims 7 is new.

Claims 1-7 are rejected.

Claims 1-7 have been examined and are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sudo et al. US 4,935,042 in view of Outland US 4,276,071.

5. For claims 1-3, 6 and 7 the Sudo et al. reference discloses particulate for an internal combustion engine, comprising a porous filter body having inflow channels and outflow channels, each inflow channel crossing at least one outflow channel from which it is separated by a filtering wall wherein the inflow channels open into a settling chamber which is an ash chamber for depositing ash, wherein the filter body is positioned within a tubular housing such that said inflow channels extend latitudinally therein, each inflow channel crosses a plurality of outflow channels and each outflow channel crosses a plurality of inflow channels, a plurality of inflow channels are arranged adjoining in a first plane and a plurality of outflow channels are arranged adjoining in a second plane parallel to the first plane (column 3, lines 1-36) and the settling chamber has a flap for removing the ash therefrom (figure 10 object 47). The reference does not disclose the inflow channels extending longitudinally therein, and wherein the outflow channels open into a chamber of the housing laterally adjacent the filter body, said chamber extending along the entire length of the housing, the settling chamber is positioned within the tubular housing adjacent to an outlet end of the filter body and the porous filter body being monolithic.

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6. To obtain the inflow channels extending longitudinally therein, an wherein the outflow channels open into a chamber of the housing laterally adjacent the filter body, said chamber extending along the entire length of the housing, the flow of the Subo et al. reference within the apparatus of filter 10, would merely just need to be reversed, so the inlet channels would be the outlet channels, and vice versa. Such an orientation of the filter would be obvious design choice to one having ordinary skill in the art as since it is well known that such filters are functional with either direction of fluid flow, and it was known in the art to have such an orientation (Outland figure 4, objects 46 and 48). It would have been obvious to one having ordinary skill in the art that with such a reversal of flow, the collection chamber should be moved to the end of the now inlet channels (so that the settling chamber is positioned within the tubular housing adjacent to an outlet end of the filter body), so as to collect the ash coming from the now inlet channels instead of the outlet channels and it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

7. The Outland reference discloses the porous filter body being monolithic (figure 4 object 44).

8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Sudo et al. reference to include the porous filter body being monolithic (Outland figure 4 object 44) so as to reduce the number of parts, and therefore assembly time, and it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

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9. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sudo et al. US 4,035,042 and Outland US 4,276,071 as applied in claim 1 above and further in view of Taketomo et al. US 4,671,809.

10. For claims 4 and 5 the Taketomo et al. reference does not disclose the inflow channels are tubes that pass through chambers without their walls contacting each other, said chambers forming the outflow channels and the outflow channels are tubes that pass through chambers without their walls contacting each other, said chambers forming the inflow channels.

11. The Taketomo et al. reference discloses the inflow channels are tubes that pass through chambers without their walls contacting each other, said chambers forming the outflow channels and the outflow channels are tubes that pass through chambers without their walls contacting each other, said chambers forming the inflow channels (column 5, lines 12-56).

12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Sudo et al. reference to include the inflow channels are tubes that pass through chambers without their walls contacting each other, said chambers forming the outflow channels and the outflow channels are tubes that pass through chambers without their walls contacting each other, said chambers forming the inflow channels (Taketomo et al. column 5, lines 12-56) in order to ensure that all of the filtering material passes through the filter walls.

Response to Arguments

1. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMBER ORLANDO whose telephone number is (571)270-3149. The examiner can normally be reached on Mon.-Thurs. (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached at (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Duane Smith/
Supervisory Patent Examiner, Art
Unit 1776

AO